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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,612	02/11/2002	Steven N. Terranova	2400-208A	8811
27820	7590	12/02/2003	EXAMINER	
WITHROW & TERRANOVA, P.L.L.C. P.O. BOX 1287 CARY, NC 27512			FRECH, KARL D	
		ART UNIT	PAPER NUMBER	
		2876		

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/073,612	TERRANOVA ET AL.	
	<b>Examiner</b> Karl D Frech	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 September 2003.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

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| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

1. Applicant's response filed 9/22/03 has been fully considered.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1,2,4,6,11-17,19-24 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al 5,824,188 in view of Bohnert et al 6,092,629 and Muehlberger et al 6,032,859. Ramsey discloses a fuel dispenser with means to provide cash in excess of a transaction to the customer. There is provided a control system for controlling the fuel dispenser and the customer interface. A central control system is associated with at least one dispenser to effect authorization of a customer transaction. Ramsey discloses a card reader for reading a credit or debit card upon which account the transaction is drawn. Ramsey does not disclose the customer requested "cash back" feature. Bohnert discloses in column 6 lines 5+, a fuel dispenser that provides a "cash back" option. Bohnert, too, does not specifically disclose that the customer requests the "cash back". Muehlberger discloses a customer operated purchasing terminal, which services merchants and allows a customer to request cash back as taught by the use of ATM cards. Further, it has been common since before the effective filing date of the current application to receive "cash back" when using an ATM card at a merchant. It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide cash back due to user request in the combined system of Ramsey and Bohnert. This would add to the convenience of the self serve fuel pump as

it would allow a person to withdraw from an account at time of fuel "fill up". Thus the customer would not need to make a separate trip to the bank.

4. Claim 3 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al 5,842,188 and Bohnert et al 6,092,629 and Muehlberger et al 6,032,859 as applied to claim 1 above and further in view of Baker et al 6,032,703. Ramsey, Bohnert and Muehlberger do not disclose that the financial information reader is a transponder. Baker discloses a transponder system at a fuel dispenser. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the Baker transponder teaching in the combined system of Ramsey, Bohnert and Muehlberger. This would allow for hands free transaction processing.

5. Claims 5,7-10,18 rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al 5,842,188, Bohnert et al 6,092,629 and Muehlberger 6,032,859 as applied to claims 1,6,15 above and further in view of Bustos et al 5,918,764. Ramsey Bohnert and Muehlberger fail to teach a currency delivery receptacle as claimed. Bustos discloses a pneumatic product vending system. It would have been obvious to a person of ordinary skill in the art at the time of the invention to integrate the pneumatic delivery apparatus of Bustos in the combined system of Ramsey, Bohnert and Muehlberger. This would allow the fuel pump to be constantly supplied with appropriate funding and provide security as the fuel pumps would not need to store an over abundance of currency.

6. Applicant's arguments filed 9/22/03 have been fully considered but they are not persuasive. Applicant argues that due to the teaching of Ramsey in lines 14-35 of column 12, that one cannot include the teachings of Bohnert and Muehlberger. The examiner respectfully disagrees. Replacing the card acceptance means of Ramsey with

that as taught specifically by Muehlberger would not render Ramsey unsuitable for its intended purpose. The intended purpose of Ramsey is to provide a convenient payment means at a fuel pump. Muehlberger further enhances the convenience by updating the system of Ramsey. Further, the three references, when taken on the whole, along with the knowledge generally available to the skilled artisan at the time of the invention, encompass all the limitations of the current invention.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. The examiner acknowledges that Muehlberger was not specifically mentioned in the rejection of claims 3,5,7-10,18 in the previous office action. However, since all of these claims depend either directly or indirectly on claims 1,6,or 14, and since Muehlberger was specifically relied upon for the rejection of claims 1,6 and 14 in the previous office action, the reliance upon Muehlberger in the previous rejection of claims 3,5,7-10,18 was implied. Any inconvenience is regretted.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D Frech whose telephone number is (703) 305 3491. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (703) 305 3503. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.



Karl D Frech  
Primary Examiner  
Art Unit 2876

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